



February 22, 2008

ENGROSSED SENATE BILL No. 258

DIGEST OF SB 258 (Updated February 19, 2008 11:54 am - DI 107)

Citations Affected: IC 11-13; IC 35-38.

Synopsis: Discharge of long term inmates and electronic copies of sentencing information. Requires the department of correction (department) to provide for an automatic, one time review of the sentence of a long time inmate who has not been convicted of a violent offense to determine whether the inmate has been rehabilitated and has suitable plans that would warrant discharge from custody. Requires an inmate released by the department to be placed on parole. Allows a court to: (1) send copies of certain reports relating to the conviction of an individual to the department; and (2) certify copies of judgments of conviction and sentences to receiving authorities; through a any electronic means approved by the department.

Effective: July 1, 2008.

Waterman, Simpson, Rogers

(HOUSE SPONSORS — SMITH V, BORDERS)

January 10, 2008, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 24, 2008, amended, reported favorably — Do Pass.

January 28, 2008, read second time, ordered engrossed. Engrossed.

January 29, 2008, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

February 11, 2008, read first time and referred to Committee on Judiciary.

February 21, 2008, amended, reported — Do Pass.

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ES 258—LS 6155/DI 107+



February 22, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 258

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-13-9 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]:

4 **Chapter 9. Rehabilitation Based Discharge for Long Term**
5 **Inmates**

6 **Sec. 1. This chapter does not apply to the following:**

7 (1) An inmate who receives a sentence of death under
8 IC 35-50-2.

9 (2) A sexually violent predator (as defined in IC 35-38-1-7.5).

10 (3) A person convicted of a crime of violence (as defined in
11 IC 35-50-1-2).

12 **Sec. 2. Notwithstanding any other law, as soon as practicable**
13 **after an inmate has been confined to the custody of the department**
14 **for twenty-five (25) consecutive years, the department shall**
15 **provide for an automatic, one (1) time review of the inmate's**
16 **sentence to determine whether the circumstances warrant the**
17 **inmate's discharge from the custody of the department.**

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1 **Sec. 3.** The department shall establish a panel separate from the
2 parole board to conduct the review.

3 **Sec. 4.** The panel shall consider all relevant factors in
4 determining whether the inmate is to be discharged under this
5 chapter, with special consideration to be given to an inmate who
6 demonstrates each of the following:

7 (1) A good conduct history during confinement.

8 (2) Proof that the inmate will have suitable living quarters in
9 a community if the inmate is discharged.

10 (3) Proof that one (1) or more employers in the area in which
11 the inmate would reside if discharged have offered to employ
12 the inmate for at least thirty (30) hours a week on the same
13 terms as the employer employs other employees.

14 (4) Proof that the inmate:

15 (A) is at least a high school graduate; or

16 (B) has obtained:

17 (i) a general equivalency degree; or

18 (ii) a state of Indiana general educational development
19 (GED) diploma.

20 **Sec. 5.** (a) If the panel determines that the inmate:

21 (1) has been properly rehabilitated; and

22 (2) has suitable plans to carry out if discharged;

23 the panel shall discharge the inmate from the custody of the
24 department. An inmate who is released from confinement under
25 this subsection must be placed on parole as described in subsection
26 (b).

27 (b) An inmate who is discharged from the department under
28 this section shall be placed on parole as follows:

29 (1) An inmate who is required to be placed on parole for the
30 remainder of the inmate's life under IC 35-50-6-1(e) shall be
31 placed on parole for the remainder of the inmate's life.

32 (2) An inmate who is a sex offender (as defined in
33 IC 11-8-8-4.5) and who is not required to be placed on lifetime
34 parole under IC 35-50-6-1(e) shall be placed on parole for ten
35 (10) years, less any period of probation the inmate is required
36 to serve.

37 (3) An inmate who is:

38 (A) not an inmate described in subdivision (1) or (2); and

39 (B) not required to serve a period of probation;

40 shall be placed on parole for two (2) years.

41 **Sec. 6.** The department shall adopt rules under IC 4-22-2 to
42 implement this chapter.

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SECTION 2. IC 35-38-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) If a convicted person is sentenced to a term of imprisonment, the court shall send a copy of:

- (1) the presentence report;
- (2) any presentence memorandum filed by the convicted person;
- (3) the report of any physical or mental examination made incident to the question of sentence; ~~and~~
- (4) any record made under IC 35-35-2 **or IC 35-35-3;**
- (5) the abstract of judgment;**
- (6) the judgment of conviction; and**
- (7) the sentencing order;**

to the department of correction.

(b) Copies of the information sent to the department of correction under subsection (a) may be sent through any electronic means approved by the department of correction.

SECTION 3. IC 35-38-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) When a convicted person is sentenced to imprisonment, the court shall, without delay, certify, under the seal of the court **or through any electronic means approved by the department of correction,** copies of the judgment of conviction and sentence to the receiving authority.

(b) The judgment must include:

- (1) the crime for which the convicted person is adjudged guilty and the classification of the criminal offense;
- (2) the period, if any, for which the person is rendered incapable of holding any office of trust or profit;
- (3) the amount of the fines or costs assessed, if any, whether or not the convicted person is indigent, and the method by which the fines or costs are to be satisfied;
- (4) the amount of credit, including credit time earned, for time spent in confinement before sentencing; and
- (5) the amount to be credited toward payment of the fines or costs for time spent in confinement before sentencing.

(c) The judgment may specify the degree of security recommended by the court.

(d) A term of imprisonment begins on the date sentence is imposed, unless execution of the sentence is stayed according to law.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 258, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 6, delete "either of".

Page 1, between lines 9 and 10, begin a new line block indented and insert:

"(3) A person convicted of a crime of violence (as defined in IC 35-50-1-2)."

Page 2, line 18, after "5." insert "(a)".

Page 2, line 22, delete "However, an inmate who is a sex offender (as defined" and insert **"An inmate who is released from confinement under this subsection must be placed on parole as described in subsection (b)."**

Page 2, delete lines 23 through 25, begin a new paragraph and insert:

"(b) An inmate who is discharged from the department under this section shall be placed on parole as follows:

(1) An inmate who is required to be placed on parole for the remainder of the inmate's life under IC 35-50-6-1(e) shall be placed on parole for the remainder of the inmate's life.

(2) An inmate who is a sex offender (as defined in IC 11-8-8-4.5) and who is not required to be placed on lifetime parole under IC 35-50-6-1(e) shall be placed on parole for ten (10) years, less any period of probation the inmate is required to serve.

(3) An inmate who is:

(A) not an inmate described in subdivisions (1) or (2); and

(B) not required to serve a period of probation;

shall be placed on parole for two (2) years."

and when so amended that said bill do pass.

(Reference is to SB 258 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 5, Nays 4.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 258, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 38, delete "subdivisions" and insert "**subdivision**".

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 2. IC 35-38-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. **(a)** If a convicted person is sentenced to a term of imprisonment, the court shall send a copy of:

- (1) the presentence report;
- (2) any presentence memorandum filed by the convicted person;
- (3) the report of any physical or mental examination made incident to the question of sentence; ~~and~~
- (4) any record made under IC 35-35-2 **or IC 35-35-3;**
- (5) the abstract of judgment;**
- (6) the judgment of conviction; and**
- (7) the sentencing order;**

to the department of correction.

(b) Copies of the information sent to the department of correction under subsection (a) may be sent through any electronic means approved by the department of correction.

SECTION 3. IC 35-38-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) When a convicted person is sentenced to imprisonment, the court shall, without delay, certify, under the seal of the court **or through any electronic means approved by the department of correction,** copies of the judgment of conviction and sentence to the receiving authority.

(b) The judgment must include:

- (1) the crime for which the convicted person is adjudged guilty and the classification of the criminal offense;
- (2) the period, if any, for which the person is rendered incapable of holding any office of trust or profit;
- (3) the amount of the fines or costs assessed, if any, whether or not the convicted person is indigent, and the method by which the fines or costs are to be satisfied;
- (4) the amount of credit, including credit time earned, for time spent in confinement before sentencing; and
- (5) the amount to be credited toward payment of the fines or costs for time spent in confinement before sentencing.

(c) The judgment may specify the degree of security recommended

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by the court.

(d) A term of imprisonment begins on the date sentence is imposed, unless execution of the sentence is stayed according to law."

and when so amended that said bill do pass.

(Reference is to SB 258 as printed January 25, 2008.)

LAWSON L, Chair

Committee Vote: yeas 7, nays 1.

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